

MDR Tracking Number: M5-04-1267-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on January 8, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The massage therapy, mechanical traction, therapeutic exercise, electrical stimulation unattended, acupuncture, durable medical equipment and office visits were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 01-08-03 through 02-12-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 29<sup>th</sup> day of March 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PR/pr

March 23, 2004

Rosalinda Lopez  
Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

Re: MDR #: M5-04-1267-01  
IRO Certificate No.: IRO 5055

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

## **REVIEWER'S REPORT**

### **Clinical History:**

The claimant reported that on \_\_\_ she injured her back while at work, which resulted in lower back pain.

### **Disputed Services:**

Massage therapy, mechanical traction, therapeutic exercise, electrical stimulation-unattended, acupuncture, durable medical equipment and office visits, during the period of 01/08/03 through 02/12/03.

### **Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the treatment and services in dispute as stated above were medically necessary in this case.

### **Rationale:**

It is generally accepted by the public and practitioners alike that treatment by conservative means should be attempted prior to treatment by more aggressive measures. Review of the documents provided in this case support that the treating doctor did appropriately elect to treat conservatively prior to treatment by more invasive measures, which were tried later.

Guidelines listing criteria for determining which patients may benefit from passive or active care are currently recognized in Texas by Chiropractic Licensing Boards, State Associations, or Practice and Parameters Committees. The general consensus is that candidates for passive and active therapy is a judgmental call determined by many possible variations of clinical presentations. The Texas Worker's Compensation Commission's Medical Fee Guidelines adopts its therapy guidelines from The Commission of Accreditation and Rehabilitation Facilities [CARF] Standards Manual, which are the generally accepted guidelines.

From the document authored by Craig Liebnsen titled *The Purpose of Spinal Rehabilitation, Integration of Passive and Active Care*: There are no objective tests from which to determine the need for appropriate care or the conclusion of it. However, there is sound rationale for spinal rehabilitation for chronic musculoskeletal pain where as palliative measures, in particular spinal manipulation, give much needed symptomatic relief and improved activity tolerance in acute pain patients. This is an exercise, which is proven to be ineffective in chronic situations.

In a document offered by K.D. Christiansen, D.C. entitled *Physical Therapy and Rehabilitation Guidelines For the Chiropractic Profession. Stage Four, the Rehabilitation Stage of Treatment Following 7-12 Weeks of Subacute Remodeling Phase*: Each clinician must depend on his own knowledge of chiropractic and expertise and the use or modification of these materials and information. Generally, passive care is time limited, progressing to active care and patient functional recovery.

Sincerely,